

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROBERT LINCOLN,	:	CIVIL ACTION
Petitioner,	:	
v.	:	
	:	
JOHN A. PALAKOVICH, THE	:	
DISTRICT ATTORNEY OF THE	:	No. 07-1373
COUNTY OF PHILADELPHIA, and	:	
THE ATTORNEY GENERAL OF THE	:	
STATE OF PENNSYLVANIA,	:	
Respondents.	:	

**ORDER**

AND NOW, this 24<sup>th</sup> day of August, 2011, it appearing that the Court of Appeals remanded the petition for a writ of habeas corpus for this court to hold an evidentiary hearing to consider whether the conduct of direct appeal counsel caused petitioner to lose the right to a direct appeal, and following the evidentiary hearing at which counsel for all parties were heard, it is **ORDERED** that, for the reasons stated in the attached memorandum of law:

1. The petition for writ of habeas corpus (paper no.1) is **GRANTED** as to Claim I (ineffective assistance of direct appeal counsel for withdrawing the direct appeal), petitioner's conviction and sentence are **VACATED**, and respondents shall **RELEASE** petitioner from custody, **UNLESS** within 180 days from the date of this order, petitioner's direct appeal has been reinstated *nunc pro tunc*.

2. Having granted a conditional writ of habeas corpus, there is no need to consider a certificate of appealability for petitioner.

3. The Clerk shall mark this case **CLOSED**.

/s/ Norma L. Shapiro

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J.